

Auctioneers & New Jersey Sales Tax

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Registration

An auctioneer is required to register and collect sales tax when selling taxable tangible personal property* in New Jersey either for himself or on behalf of others. To register the auctioneer must file an **Application for Business Registration (Form NJ-REG)**. A Public Records Filing may also be required depending upon the type of business ownership. For more information on Public Records Filing call 609-292-9292.

When an auctioneer purchases taxable tangible personal property in New Jersey for resale, the property may be purchased without payment of sales tax, provided the supplier is issued a completed **New Jersey Resale Certificate (Form ST-3)**. The auctioneer must be registered with the State to issue valid resale certificates.

An out-of-State auctioneer who auctions taxable tangible personal property in New Jersey must register with the State.

Registration is required even if the auctioneer has no intention of continuing to auction in the State. After the sale, the auctioneer may apply to be put on a non-reporting basis for sales tax purposes. This can be done by filing a **New Jersey Request to be Placed on a Non-Reporting Basis (Form C-6205-ST)**.

***The term tangible personal property shall mean physical property, such as machinery, fixtures, tools, implements, goods, wares and merchandise. It does not include stocks, bonds, notes, credits, or evidence of an interest in property or evidence of a debt.**

Purchases By Auctioneers

An auctioneer may purchase taxable tangible personal property intended for resale from a homeowner without payment of sales tax, provided the property was purchased by the owner for personal use in this State and the owner is not engaged in the business of selling at retail. When the auctioneer sells the taxable tangible personal property, however, sales tax must be collected on all taxable sales.

Example: Bill, the proprietor of an auction house, specializes in antique furniture. He obtains most of his inventory at estate sales. When Bill purchases antiques for resale from an estate, no sales tax is due. He must collect sales tax when he sells the items.

An auctioneer may purchase tangible personal property intended for resale from a business or another auctioneer without payment of sales tax provided a properly completed **New Jersey Resale Certificate (Form ST-3)** is issued to the supplier. To issue and accept a New Jersey Resale Certificate, an auctioneer must be registered with the State.

Example: John, an auctioneer, purchases several tables from Molly's Antique Shop for resale at his auction house. John may purchase the tables without payment of sales tax, provided he gives Molly a resale certificate. Both Molly and John must be registered with the State.

An out-of-State auctioneer making purchases in New Jersey for resale may register in this State for the sole purpose of making such purchases without paying sales tax. However, if the auctioneer makes sales or purchases which are subject to New Jersey sales or use tax, he must change his filing status and remit the appropriate tax. The Division of Revenue's Client Registration section should be contacted in such instances (609-292-1730). The out-of-State auctioneer registers by filing **Form NJ-REG**.

Casual Sales

A transaction qualifies as a non-taxable casual sale if it is an isolated or occasional sale of tangible personal property by persons not regularly engaged in the business of retail sales; and

- a. The person making the sale obtained the property for his own use; and
- b. Sales are not conducted more than four times during a calendar year and last no more than one week at a time.

Sales By Auction

An auction sale of taxable personal property on the premises of the owner of the property, who acquired the property for personal use, is a casual sale and is not subject to sales tax. However, an auction sale of taxable tangible personal property purchased by the owner for personal use, and sold at a location *other than* the owner's premises, is not a casual sale and is subject to sales tax.

Retail Sales

Sales by auctioneers on their own premises are considered retail sales. Such sales of taxable tangible personal property owned by different businesses or individuals that is assembled for auction are taxable.

The auctioneer, as agent of the owner of the property sold at the auction, must collect, report and remit sales tax due.

Sheriff Auctions

A sale conducted under a court order, such as a sheriff's auction, is considered a casual sale. The same guidelines apply with the following differences: the tangible personal property may be sold on behalf of the creditors instead of the owner and the property may be sold at a location in the State *other than* the premises of the owner.

Commission

Sales tax is not imposed on the charge for an auctioneer's services. However, if a percentage of the price of a taxable item is paid to the auctioneer as a commission, the sales tax must be computed before the commission is deducted.

Out-of-State Delivery

An auctioneer registered with the State of New Jersey is not required to charge and collect New Jersey sales tax when selling taxable tangible personal property to an out-of-State purchaser and delivering the goods out-of-State for the purchaser's use. However, if the out-of-State purchaser picks up the taxable property in New Jersey, or arranges for his agent to do so, the auctioneer is required to collect sales tax. This is because the sale is treated as being consummated in New Jersey.

A sale is taxable if the vendor is required to deliver the tangible personal property by his own vehicles and employees, common carrier or parcel post of the United States mails, to a destination within the State.

For More Information

For more information on auctioneers and New Jersey sales tax, call the Division's Customer Service Center at 609-292-6400, e-mail us at nj.taxation@treas.state.nj.us, or write to:

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Many State tax forms and publications are now available, both by fax and through the World Wide Web. Call NJ TaxFax from your fax machine's phone at 609-826-4500, or access the Division's home page via your computer's modem at: <http://www.state.nj.us/treasury/taxation/>